

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ELIZABETH DE COSTER, *et al.*, on behalf of
themselves and all other similarly situated,

Plaintiffs,

v.

AMAZON.COM, INC., a Delaware corporation,

Defendant.

No. 2:21-cv-00693-JHC

STIPULATED MOTION AND
ORDER REGARDING EXPERT
DEPOSITION(S) AND DAUBERT
MOTION(S)

STIPULATED MOTION

Pursuant to Local Civil Rules 7(d)(1) and 10(g), the Parties in the above-captioned action, by and through their respective counsel, agree to the following stipulation regarding expert depositions in connection with the Parties' class certification briefing and any motion to exclude expert testimony for failure to satisfy *Daubert v. Merrell Dow Pharmaceuticals, Inc.* and its progeny in connection with the Parties' class certification briefing ("*Daubert* motions").

On June 25, 2024, the Court entered an Order re: Discovery Coordination, Class Certification Briefing Schedule & Rule 30(b)(6) Deposition. Dkt. 160. This Order set forth a briefing schedule for class certification in the above-captioned case, *id.*, but it did not set deadlines for expert depositions in connection with the Parties' class certification briefing or *Daubert* motions in connection with the Parties' class certification briefing.

On July 31, 2024, the Court entered an Order re: Sealing of Class Certification Briefing. Dkt. 171. This Order set forth a procedure for filing and sealing in connection with the class certification briefing. *Id.*

Accordingly, the Parties have met and conferred, and stipulate and agree as follows:

1. The schedule for *Daubert* briefing will be as follows:

Filing	Date
Amazon's Response in Opposition to Motion to Certify Class; Amazon's <i>Daubert</i> Motion	November 25, 2024
Plaintiffs' Reply in Support of Motion to Certify Class; Plaintiffs' Response in Opposition to Amazon's <i>Daubert</i> Motion; Plaintiffs' <i>Daubert</i> Motion(s)	January 24, 2025
Amazon's Reply in Support of Amazon's <i>Daubert</i> Motion; Amazon's Response(s) in Opposition to Plaintiffs' <i>Daubert</i> Motion(s)	March 3, 2025
Plaintiffs' Reply(ies) in Support of Plaintiffs' <i>Daubert</i> Motion(s)	March 31, 2025

2. The date for the hearing on Plaintiffs' class certification motion is "To be set by Court after briefing completed." Dkt. 160. Once class certification and *Daubert* briefing is complete, the Parties will meet and confer concerning the proposed scope and structure of the hearing and make a joint submission setting forth the Parties' proposal(s) within three weeks after completion of all briefing, including the submission of Plaintiffs' Reply Brief(s) in Support of any *Daubert* Motion(s) by Plaintiffs.

3. To ensure that materials designated as Confidential or Highly Confidential-Attorneys' Eyes Only by either a Party or Non-Party are treated appropriately and under the applicable protective order and to reduce burdens on the Court, the Parties, and Non-Parties, the

Parties and their respective counsel hereby stipulate and agree to the following procedure for filing and sealing in connection with *Daubert* motions, subject to the Court's approval:

a. Pursuant to LCR 5(g)(2), each Party will provisionally file under seal its *Daubert* briefing (including any opening, response, and reply briefs), exhibits, and all other evidence and declarations on which that Party relies (collectively, "*Daubert Papers*") that contain material designated Confidential or Highly Confidential-Attorneys' Eyes Only by any Party or Non-Party.

b. Within five weeks after the filing of the Parties' reply brief(s), pursuant to LCR 5(g), the Parties, and any necessary Non-Parties, will meet and confer and, as appropriate, file (1) public versions of their *Daubert Papers* and (2) corresponding motion(s) to seal pursuant to LCR 5(g)(3). The Party or Non-Party seeking to maintain material under seal (or under redaction) shall be the movant for purposes of any such motion(s) to seal associated with the Parties' class certification briefing. The deadline for filing any such public versions of the Parties' *Daubert Papers* and corresponding motion(s) to seal shall be May 5, 2025.

4. The Parties agree and stipulate that the following word limits will apply to *Daubert* briefs in the above-captioned cases:

Brief	Word Limit (LCR 7(e)(5))
<i>Daubert</i> Motion(s)	4,200
Opposition to <i>Daubert</i> Motion(s)	4,200
Reply in Support of <i>Daubert</i> Motion(s)	2,100

5. The Parties may depose the other Party's expert(s) in connection with the Parties' class certification briefings, with the Parties to work together in good faith to establish an appropriate and agreeable deposition date in that timeframe. Expert witnesses who submit one report in this case may be questioned for up to seven (7) hours. Expert witnesses who submit two reports may be questioned for up to ten-and-a-half (10.5) hours, assuming the deposition

1 takes place following their second report. In the event that an expert is deposed for seven (7)
 2 hours following the expert's first report, the Parties shall meet and confer to discuss the
 3 parameters for any second deposition following any second report.

4 6. In its Reply Brief in support of its *Daubert* motion, Amazon may, as permitted by
 5 the Rules, address any new material or analyses submitted in Plaintiffs' Reply Brief in support of
 6 class certification and/or Reply Expert Report(s), as well as the deposition testimony of
 7 Plaintiffs' expert. Plaintiffs reserve the right to file a surreply as set forth in Local Rule 7(g) to
 8 the extent Amazon's Reply Brief in support of its *Daubert* motion exceeds what is permitted by
 9 the Federal Rules.

10 7. Within 21 days of Plaintiffs filing their motions for class certification in *Frame-*
 11 *Wilson v. Amazon* (20-cv-424) and *Brown v. Amazon* (22-cv-965), the Parties will meet and
 12 confer to discuss the timing of expert depositions in those cases, and deadlines for the filing of
 13 *Daubert* motions. Within 30 days of Plaintiffs filing their motions for class certification in
 14 *Frame-Wilson* and *Brown*, the Parties will jointly submit a proposed schedule for *Daubert*
 15 briefing in each of those cases.

16 IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.

17 DATED October 16, 2024.

Respectfully submitted,

18 HAGENS BERMAN SOBOL SHAPIRO LLP

19 By /s/ Steve W. Berman

20 Steve W. Berman (WSBA No. 12536)

21 Barbara A. Mahoney (WSBA No. 31845)

1301 Second Avenue, Suite 2000

Seattle, WA 98101

22 Telephone: (206) 623-7292

23 Facsimile: (206) 623-0594

E-mail: steve@hbsslaw.com

24 E-mail: barbaram@hbsslaw.com

1 Anne F. Johnson (*pro hac vice*)
2 394 Dean Street, Suite 24
3 Brooklyn, NY 11238
4 Telephone: (718) 916-3520
5 E-mail: annej@hbsslaw.com
6 KELLER POSTMAN LLC

7 Zina G. Bash (*pro hac vice*)
8 111 Congress Avenue, Suite 500
9 Austin, TX, 78701
10 Telephone: (512) 690-0990
11 E-mail: zina.bash@kellerpostman.com

12 Jessica Beringer (*pro hac vice*)
13 Shane Kelly (*pro hac vice*)
14 Alex Dravillas (*pro hac vice*)
15 150 North Riverside Plaza, Suite 4100
16 Chicago, Illinois 60606
17 Telephone: (312) 741-5220
18 E-mail: Jessica.Beringer@kellerpostman.com
19 E-mail: shane.kelly@kellerpostman.com
20 E-mail: ajd@kellerpostman.com

21 *Interim Co-Lead Counsel for Plaintiffs and the*
22 *proposed Class*

23 Roseann R. Romano (*pro hac vice*)
24 1101 Connecticut Avenue, N.W., Suite 1100
25 Washington, D.C., 20036
26 Telephone: 202-918-1123
27 E-mail: Roseann.Romano@kellerpostman.com

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Alicia Cobb, WSBA # 48685
1109 First Avenue, Suite 210
Seattle, WA 98101
Telephone: (206) 905-7000
Email: aliciacobb@quinnemanuel.com

1 Steig D. Olson (*pro hac vice*)
2 David D. LeRay (*pro hac vice*)
3 Nic V. Siebert (*pro hac vice*)
4 Maxwell P. Deabler-Meadows (*pro hac vice*)
5 51 Madison Avenue, 22nd Floor
6 New York, NY 10010
7 Telephone: (212) 849-7000
8 Email: steigolson@quinnemanuel.com
9 Email: davidleray@quinnemanuel.com
10 Email: nicolassiebert@quinnemanuel.com
11 Email: maxmeadows@quinnemanuel.com

12 Adam B. Wolfson (*pro hac vice*)
13 865 South Figueroa Street, 10th Floor
14 Los Angeles, CA 90017-2543
15 Telephone: (213) 443-3000
16 Email: adamwolfson@quinnemanuel.com

17 *Interim Executive Committee for Plaintiffs and the*
18 *proposed Class*

19 DAVIS WRIGHT TREMAINE LLP

20 By: /s/ John A. Goldmark
21 John A. Goldmark, WSBA #40980
22 MaryAnn Almeida, WSBA #49086
23 920 Fifth Avenue, Suite 3300
24 Seattle, WA 98104-1610
25 Telephone: (206) 622-3150
26 Email: JohnGoldmark@dwt.com
27 Email: MaryAnnAlmeida@dwt.com
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP

Karen L. Dunn (*pro hac vice*)
William A. Isaacson (*pro hac vice*)
Amy J. Mauser (*pro hac vice*)
Kyle Smith (*pro hac vice*)
2001 K Street, NW
Washington, D.C. 20006-1047
Telephone: (202) 223-7300
Email: kdunn@paulweiss.com
Email: wisaacson@paulweiss.com
Email: amauser@paulweiss.com
Email: ksmith@paulweiss.com

Meredith Dearborn (*pro hac vice*)
535 Mission Street, 24th Floor
San Francisco, CA 94105
Telephone: 628-432-5100
Email: mdearborn@paulweiss.com

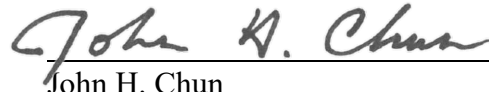
Yotam Barkai (*pro hac vice*)
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: (212) 373-3000
Email: ybarkai@paulweiss.com

Attorneys for Defendant Amazon.com, Inc.

ORDER

Pursuant to the Parties' above stipulation, IT IS SO ORDERED.

Dated this 17th day of October, 2024.

A handwritten signature in black ink, reading "John H. Chun", is written over a horizontal line.

John H. Chun

UNITED STATES DISTRICT JUDGE